

POLICY AND STRATEGY

Local Government and Elections (Wales) Bill: overview

The Local Government Elections (Wales) Bill will reform and strengthen local government and improve electoral arrangements.



Summary of the Act
& Implications for Audit Committee

1 March 2021

Summary

Local Government and Elections (Wales) Act (2021)

- The Act is a substantial piece of legislation covering electoral reform, public participation, governance & performance and regional working.
- The Bill was introduced in 2019 and passed by the Senedd on 18th November 2020. The Bill received Royal Assent in January 2021.
- The Act replaces the current improvement duty for principal councils set out in the Local Government (Wales) Measure 2009.
- The new approach as set out in the Act is designed to be a more streamlined, flexible, sector-led approach to performance, good governance and improvement. The intention is for councils to be proactive in considering how internal processes and procedures should change to enable more effective planning, delivery and decision-making to drive better outcomes.

Summary of the Act

Reforming electoral arrangements for local government

- Extending the voting franchise to 16 and 17 year olds and foreign citizens legally resident in Wales
- Enabling councils to choose between 'first past the post' or the 'single transferable vote' voting systems
- Change of electoral cycle for principal councils from four years to five years
- Allowing non-politically restricted council staff to stand for election in their own authority (but who should resign if elected)
- Removal of Returning Officers' Fees for local elections

Introduction of a general power of competence

Reforming public participation in local government

- Duty to encourage local people to participate in local government (and to produce a strategy to that effect)
- Duty to make petition scheme (and repeal of community polls);
- Duty to broadcast certain meetings
- Greater flexibility around remote attendance of members

Reforms around democratic governance and leadership

- Appointment of Chief executives (rather than a head of paid service) with specific duties
- Appointment of assistants to cabinets and allowing job-sharing leaders or cabinet members
- Updating family absence provisions in line with those available to employees (via regulations)
- Requiring leaders of political groups to promote and maintain high standards of conduct by members of their groups

Collaborative Working

- Powers for councils to initiate the establishment of Corporate Joint Committees (CJCs) covering any functions
- Powers for Ministers to establish CJCs covering the four functions of economic wellbeing, transport, strategic planning and school improvement

Reform of the performance & governance regime

- Repeal of the 2009 Measure duties, replacing audit and reporting duties with self-assessment and panel assessment (peer review);
- Reforms to Audit Committees, renaming as Governance and Audit Committees and prescribing membership and chair (lay member).

Powers to facilitate voluntary mergers of principal councils

Performance & Governance

Part 6 Chapter 1 - Performance and Governance

- The Act provides a new system for improving performance and governance, replacing the current improvement duty for councils set out in the Local Government (Wales) Measure 2009.
- The new approach set out in the Act is designed to provide for a more streamlined, flexible, sector-led approach to performance, good governance and improvement.
- The performance and governance provisions will require councils to review the extent to which they are meeting their performance requirements, that is the extent to which they are:
 - i) exercising their functions effectively;
 - ii) are using their resources economically, efficiently and effectively; and
 - iii) are governed effectively.
- The performance and governance provisions in the Act are framed within the wider sustainable development duties and the seven well-being goals which public bodies must work towards collectively and five ways of working to guide how public bodies should deliver

Part 6 Chapter 1 - Performance and Governance

- The draft guidance specifically addresses the following duties to be placed on principal councils:
- **Duty to keep performance under review**
 - The Act requires a council to keep under review the extent to which it is fulfilling the ‘performance requirements’:
 - exercising its functions effectively;
 - using its resources economically, efficiently and effectively; and
 - has effective governance in place for securing the above.
- **Duty to consult on performance**
 - A council must consult a range of people at least once in each financial year about the extent to which the council is meeting the performance requirements. The statutory consultees are:
 - local people;
 - other persons carrying on a business in the council’s area;
 - the staff of the council; and
 - every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.

Performance and Governance

- **Duty to report on performance**

- A council must produce a self-assessment report in respect of each financial year. The report must set out its conclusions on the extent to which it met the performance requirements during that year, and any actions it intends to take, or has already taken, to increase the extent to which it is meeting the performance requirements.

- **Duty to arrange a panel assessment of performance**

- A council must arrange for a panel to undertake an assessment, at least once during the period between two consecutive ordinary elections of councillors to the council, of the extent to which the council is meeting its performance requirements.
- There is a cost to a Local Authority for holding statutory peer assessments.
- The council is responsible for identifying panel assessors, commissioning the panel to undertake the assessment, and meeting any associated costs. At this time the actual costs are unknown.

- **Duty to respond to a panel performance assessment report**

- A council must prepare a response to each panel performance assessment report, setting out the extent to which it accepts the conclusions in the report, the extent to which it intends to follow any recommendation in the report, and any actions the council intends to take to increase the extent to which it is meeting the performance requirements.

Performance and Governance

- There are other provisions within Part 6 of the Act such as powers for the Auditor General for Wales to carry out special inspections of a council; powers for the Welsh Ministers to provide support and assistance to a council with a view to improving its performance; and powers for the Welsh Ministers to intervene in a council which is not, or may not be, meeting the performance requirements.
- There is also a Socio-economic Duty, which will come into force on 31 March 2021. This duty will require principal councils, when taking strategic decisions such as ‘deciding priorities and setting objectives’, to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage - driving better outcomes on people’s lives and experiences through better decision making and further contributing towards our shared goal of becoming “a more equal Wales”.

Governance & Audit Committees

Governance & Audit Committee Changes

In addition to current responsibilities.

Section 115 of the Act comes into force in April 2021 (Title, Performance assessment and complaints)

- The title of the Committee will change to **Governance & Audit Committee**
- The Committee will need to:
 - To consider the Council's draft Annual Performance Self - Assessment report and if deemed necessary may make recommendations for changes to the Council.
 - To receive the Council's finalised Annual Self-Assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
 - At least once during the period between two consecutive ordinary elections of councillors to the Council, consider the independent Panel Performance Assessment report into which the Council is meeting its performance requirements.
 - To receive and review the Council's draft response to the report of the independent Panel Performance Assessment and if deemed necessary may make recommendations for changes to the statements made in the draft response to the Council.
 - To review and assess the Council's ability to deal with complaints effectively.
 - To make reports and recommendations in relation to the Council's ability to deal with complaints effectively.

The other changes in S116,117 & 118 come into effect in May 2022. (Lay membership and Chair etc)

- One third of the Committees membership must be made up from lay persons appointed by the Council.
- The Governance and Audit Committee shall be chaired by a lay member elected by the Committee.
- The Vice Chair elected by the Committee may be a Vale of Glamorgan Councillor or a lay member but must not be a member of the Authority's Cabinet (Executive) or an assistant to its Executive.

Implementation, Timescales & Next Steps

Timetable

February 2021	April 2021	May 2021	Autumn 2021
<ul style="list-style-type: none">• Range of regulations making and guidance provisions (further details can be provided as the implementation plan evolves)	<ul style="list-style-type: none">• Performance and governance (Chapter 1 of Part 6) <u>excluding</u> panel performance assessment (s.92-93)• Change of name of audit committees, functions in relation to complaints and new performance and governance regime (s.115)	<ul style="list-style-type: none">• Remote attendance (s.47)• Notices of local authority meetings (s.49 & Schedule 4) <i>provisional</i>	<ul style="list-style-type: none">• General power of competence for principal councils (Chapter 1 of Part 2)

- General power of competence for eligible community councils (Chapter 2 of Part 2)
- Public Participation Duty (s.39-41)
- Petition Scheme (s.42)
- Duty to publish official address (s.43)
- Constitution guide (s.45)
- Broadcasting (s.46)
- Participation at meeting of community councils (s.48)
- Annual reports by community councils (s.52)
- Chief Executives (s.54)
- Job-sharing (s.58)
- Duties of political group leaders in relation to standards of conduct (s.62)
- Standards Committee annual reports (s.63)
- Overview and Scrutiny committees (s.65 & 66)
- Community Council training plans (s.67)
- Panel performance assessments (s.92-93)
- Governance audit committee – membership (s.116 – 118)
- Head of democratic services (s.161)
- Abolition of community polls (s.162)

Vale of Glamorgan Response

Cabinet Reports December 2020 referred to Corporate Performance & Resources Scrutiny Committee (January 2021)

- Overview Report & Council Action Plan for Implementation
- CJC Consultation Response
- Part 6 Performance & Governance Consultation Response

Consultation Responses submitted

Implementation being coordinated by the Monitoring Officer